

EXHIBIT 35

CONFIDENTIAL

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEW HAMPSHIRE
3
4 SECURITIES AND EXCHANGE)
COMMISSION,) Civil Action No.
5) 1:21-cv-00260-PB
Plaintiff,)
6) VOLUME 1
vs.) (Pages 1 - 219)
7)
LBRY, INC.,)
8 Defendant.)
_____)
9

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CONFIDENTIAL DEPOSITION OF
MICHAEL FINGER
BOSTON, MASSACHUSETTS
TUESDAY, DECEMBER 7, 2021
10:05 a.m.

REPORTED BY:
Jane M. Werner, RMR, CRR,
Massachusetts CSR No. 149008
JOB No. 211207DWA

CONFIDENTIAL

1 exchange?

2 MS. MARTABANO: Objection.

3 MS. MECHANIC: Objection.

4 MS. MARTABANO: Speculation.

5 A Yes, as I recall, they did.

6 Q How was it explained to you that it needed
7 LBC?

8 A I don't know. I do remember that when LBC got
9 listed, that they needed to have some coins in accord to
10 make the exchange process work.

11 Q ShapeShift was an exchange itself?

12 A As I understood it.

13 Q Did ShapeShift sell LBC as part of the
14 exchange?

15 MS. MARTABANO: Vague. Vague and speculation.

16 A I don't know.

17 Q Is ShapeShift like a peer-to-peer exchange,
18 where a buyer and a seller sells on ShapeShift?

19 MS. MARTABANO: Objection.

20 A I don't know.

21 Q Did LBRY sell LBC to ShapeShift?

22 A As I recall, yes.

23 Q How much of LBC did it sell?

24 A I don't know.

25 Q Did ShapeShift pay LBRY for the LBC?

CONFIDENTIAL

1 A Yes, generally.

2 Q Do I have that wrong?

3 A It's not always the case. It wasn't
4 necessarily always the case that they would be sent out,
5 but that would be our habit.

6 Q That was your habit during that time?

7 A Yes.

8 Q Why did LBRY have that -- or why did you have
9 that habit at the time?

10 A To promote posts on social media?

11 Q Yes.

12 A To get a bigger audience.

13 Q So it was a function of reaching more people?

14 A Yes.

15 Q Did you have an understanding at the time of
16 who the followers on LBRY's social media sites were?

17 A Loosely.

18 Q What was your loose understanding?

19 A It was people who were enthusiasts for this
20 kind of technology and cryptocurrency.

21 Q Was there a particular target audience that
22 LBRY was attempting to reach in its marketing campaign?

23 A Initially, we wanted to reach people with some
24 technical know-how, because if you're going to be alpha
25 testing, beta testing, it's helpful to have people be

CONFIDENTIAL

1 able to give feedback more than "It doesn't work."

2 But in general, this was very early in the
3 start-up -- as a start-up, so we were happy to have
4 anyone who was interested in helping us.

5 Q I think you answered your last question by
6 saying "initially." Did it change over time who the
7 target audience was?

8 A Yes. Over time, we would have gone from a
9 more -- looking for more technical people. We needed
10 people to do developing early on. And then as it became
11 more developed, it was going more and more to the
12 general public to just have people use it. And there
13 was also -- initially, we didn't need content creators,
14 because the thing wasn't built. Once it was at a point
15 where people could publish content, then there was a
16 pivot to, Okay, let's reach out to creators.

17 Q So over time, LBRY's marketing campaign
18 expanded to include more of the general population who
19 LBRY viewed to be potential users or creators for the
20 platform?

21 A Yes.

22 Q And why was that? Why did LBRY expand its
23 reach in that way or attempt to expand its reach?

24 A It was just a normal course for the company.

25 Q Was the goal to reach more people who would

CONFIDENTIAL

1 interact and use the platform?

2 A Yes.

3 Q Do you recall whether during your time at
4 LBRY, efforts were made to reach an audience that you or
5 LBRY understood to be speculative cryptocurrency
6 investors versus potential users of the platform?

7 A Now that I look back at some of these blog
8 posts, I think we did the opposite. Any comment that
9 was made about speculation was to try to tamp down or
10 distance from that being the goal of the project.

11 Q Why was that?

12 A It wasn't the goal of the project.

13 Q I won't ask you again what the goal was, since
14 I think we've asked you multiple times.

15 MS. MARTABANO: I appreciate it.

16 Q Are you familiar with the term "initial coin
17 offering" or "ICO"?

18 A Yes.

19 Q What is your understanding of that term?

20 A An ICO I understand to be when a company
21 offers coins -- a new token as a means for people to
22 invest in the company.

23 Q How did you gain that understanding?

24 A I've just been involved with the industry.

25 Q Do you have an understanding of whether LBRY

CONFIDENTIAL

CERTIFICATE OF WITNESS

I, MICHAEL FINGER, do hereby declare under penalty of perjury that I have read the entire foregoing transcript of my deposition testimony, or the same has been read to me, and certify that it is a true, correct and complete transcript of my testimony given on December 7, 2021, save and except for changes and/or corrections, if any, as indicated by me on the attached Errata Sheet, with the understanding that I offer these changes and/or corrections as if still under oath.

_____ I have made corrections to my deposition.

_____ I have NOT made any changes to my deposition.

Signed: _____
MICHAEL FINGER

Dated this _____ day of _____ of 20____.

CONFIDENTIAL

ERRATA SHEET

Deposition of: WITNESS

Date taken: DATE

Case: SEC v. CASE, et al.

PAGE LINE

CHANGE:

REASON:

CHANGE:

REASON:

CHANGE:

REASON:

CHANGE:

REASON:

CHANGE:

REASON:

CHANGE:

REASON:

CHANGE:

REASON:

CHANGE:

REASON:

CHANGE:

REASON:

CHANGE:

REASON:

CHANGE:

REASON:

CHANGE:

REASON:

CHANGE:

REASON:

Signed _____

Dated _____

217

1 COMMONWEALTH OF MASSACHUSETTS)

2 SUFFOLK, SS.)

3 I, Jane M. Werner, RMR, CRR and Notary Public in
4 and for the Commonwealth of Massachusetts, do hereby
5 certify that there came before me on the 7th day of
6 December, 2021, at 10:05 a.m., the person hereinbefore
7 named, who was by me duly sworn to testify to the truth
8 and nothing but the truth of his knowledge touching and
9 concerning the matters in controversy in this cause;
10 that he was thereupon examined upon his oath, and his
11 examination reduced to typewriting under my direction;
12 and that the deposition is a true record of the
13 testimony given by the witness.

14 I further certify that I am neither attorney or
15 counsel for, nor related to or employed by, any
16 attorney or counsel employed by the parties hereto
17 or financially interested in the action.

18

19

20

21

22

23


24

25

1 Under Federal Rule 30:

2 X Reading and Signing was requested

3 In witness whereof, I have hereunto set my hand
4 and affixed my notarial seal this 14th day of December,
5 2021.

6 
7

8 Notary Public

9 CSR No. 149008

10 Commission expires 1/27/2028

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25